

PATENT
A2996A US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): YU, ET AL. EXAMINER : UNASSIGNED
SERIAL NO. : 09/744,788 ART UNIT : UNASSIGNED
FILED : JANUARY 30, 2001
FOR : ISOFORMS OF HUMAN CALCIUM SENSING RECEPTOR

CERTIFICATE OF MAILING UNDER 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL with EXPRESS MAIL LABEL EV047247231AC mail in an envelope addressed to the COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 on MAY 28, 2002.

William C. Coppola, Reg. No. 41,686
(Name of Registered Representative)

 5/28/02
(Signature and Date)

RENEWED PETITION UNDER 37 CFR 1.47(A)

Attention: PCT Legal Office
ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
WASHINGTON, D.C. 20231

Dear Sir:

Applicants hereby file a renewed petition under 37 CFR 1.47(a) in light of a decision dated March 28, 2002 on a request for reconsideration of a petition under 37 CFR 1.47(b) March 14, 2002.

STATEMENT OF FACTS

On December 14, 2001, Applicants filed a petition under 37 CFR 1.47(b) (Filing When

an Inventor Cannot Be Reached). The United States Patent and Trademark Office (USPTO) treated Applicants' petition as being filed under 37 CFR 1.47(a).

On March 28, 2002, the USPTO dismissed Applicants' petition. It explained that in order to grant such a petition, the petition must be accompanied by:

- (1) An oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning inventors;
- (2) Factual proof that the missing joint inventor refuses to join in the application or cannot be reached after diligent effort;
- (3) The fee set forth under 37 CFR § 1.17(I); and
- (4) The last known addresses of the nonsigning joint inventors.

In dismissing Applicants' submission of March 14, 2002, the Examiner has asserted that despite copies of emails from William Coppola to Inventor LABAUDINIÈRE in attempts to locate Inventor THROWER, no affidavit signed by Mr. Coppola regarding these emails has been submitted to the USPTO.

The Examiner also asserted that letters sent previously to Inventor THROWER, i.e., those sent by Dolly Kapadia in 19 October 2001, 5 November 2001 and 20 November 2001, were successfully delivered, even though none of the documentation sent to Inventor THROWER for signature were ever returned to Aventis. Thus, it is the Examiner's position that Applicants have not provided any documentary evidence that Inventor THROWER is no longer present at the last known address and thus is not able to sign for delivery.

Moreover, the Examiner has asserted that Applicants have not provided details of any attempts to contact Inventor THROWER at his last known telephone number or any attempt to call the telephone number associated with Inventor THROWER's last known address.

In response, Applicants respectfully submit that they have previously provided, and are

providing herewith, sufficient documentary evidence to overcome the Examiner's assertions discussed above. Initially, with respect to Mr. Coppola's emails to Inventor LABAUDINIERE, Applicants submit herewith a Declaration from William Coppola which documents that on two separate occasions (October 18, 2001 and on October 29, 2001), Mr. Coppola emailed Inventor LABAUDINIERE inquiring about the location of Inventor THROWER, and received no reply from Inventor LABAUDINIERE. (§ 1 of Coppola Declaration of May 28, 2002).

Furthermore, the Examiner has asserted that Applicants have not provided any documentary evidence that Inventor THROWER is no longer present at the last known address, and thus is not able to sign for delivery of correspondence. In April 2002, William Coppola telephoned Examiner Tung, the Examiner in charge of this matter and inquired what type of documentary evidence the USPTO finds acceptable in showing that an Inventor is no longer present at the last known address. Examiner Tung explained that correspondence sent to Inventor THROWER via certified mail return receipt, with the certified mail number referenced on the mail, along with an affidavit from the person who prepared and mailed the correspondence, is sufficient documentary evidence.

In light of the Examiner's instructions, William Coppola prepared correspondence, including a Declaration for signature, and mailed the correspondence to Inventor THOWER at his last known address via certified mail, return receipt. William Coppola also mailed via certified mail return receipt the identical correspondence to Inventor THROWER at a California address that was uncovered during world wide web search and reported to the USPTO in paragraph four (4) of Andrea Ryan's Declaration dated December 13, 2001. The United States Postal Service (USPS) returned both sets of correspondence as undeliverable. (§§ 2-6 of Coppola

Declaration of May 28, 2002).

The Examiner has also asserted that Applicants have not attempted to telephone Inventor THROWER at the telephone number associated with Inventor THROWER's last known address or record. However, in William Coppola's Declaration of May 28, 2002, it is explained that Aventis has no record of a telephone number associated with Inventor THROWER's last known address. (§ 7 of Coppola Declaration of May 28, 2002). Furthermore, Applicants have attempted to contact Inventor THROWER via a telephone number having a 650 area code (California) that was uncovered during the world wide web search for Larry Thrower and reported to the USPTO in paragraph four (4) of Andrea Ryan's Declaration of December 13, 2001. However, that number had been disconnected. (§4 of Ryan Dec. 13, 2001 Dec.).

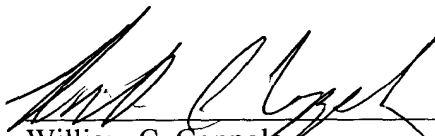
CONCLUSION

Since the USPTO has found Applicants' petition sufficient with respect to prongs (1) and (3)-(4) of the requirements for a petition under 37 CFR 1.47(a), and since the submissions filed previously and herewith clearly provide documentary evidence that diligent efforts have been

made to find or reach Inventor THRWOR and fulfill the requirements of prong (2), it is respectfully requested that Applicants' petition under 37 CFR 1.47 be reconsidered and granted in Applicants' favor.

Respectfully submitted,

AVENTIS PHARMACEUTICALS INC.



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